DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Halliday

et al.

Halliday et al. shows, figure 4, a system for accurate time and usage based

metering of client application or client application feature usage and the reporting of said

usage to a site on a public network.

From page 3, second column:

A basic overview of operation of the present invention is as follows:

A user will first create an account with the central billing site 1J and add some

credit to his account using well known financial on site or remote transaction facilities

and methods.

The user will then load from a data storage medium (such as a magnetic disk or

tape, optical disk including CD ROM and DVD, electronic storage media including

ROMcard and RAM-card, or any other suitable data storage means), or download from

a proprietor's website to his local computer, one or more specially configured software

packages. These packages may include, in addition to the client application, an

application library having metering means for developing and communicating usage

information to an also included metering monitor. An included login tool provides an interactive front end to the metering monitor and enables the user to logon to the remote metering system. The logon process will map the local user on the client computer to an account held in the remote database, and such account will be charged as usage of an application is accumulated (process accounting information for use of computing resources). Once logged on, any applications running as a local user will be charged to the remote account. The metering monitor software on the client computer is responsible for accepting usage information from a client application and forwarding that information to the central billing server. Further, the metering monitor is operative to track application exits and to close charging sessions for applications that exit spuriously. In an alternative embodiment of the present invention, the metering monitor may also act as a proxy server, accumulating metering information and forwarding the information as a batch to the central server at periodic intervals set by the server. This is intended to minimize the amount of time the client computer needs to be in contact with its metering server.

Applications (service request) are executed. As the applications execute vendor code calls to the client library to indicate that features are in use, the library will forward this information to the metering monitor. The metering monitor (recording) will then associate this application with a server account via the map of logged-in users and forward the information to the metering server.

On the metering server, usage reports are compared to a tariff sheet for the user and the account credit value is reduced by an amount as determined by the rate

(proportion) and length of use of a feature. Alternatively, charges could be accumulated and billed to the user. While the system of the present invention retroactively accumulates and charges for features used, facilities are included to prevent misuse of the system. These facilities include: means for disabling the client applications if usage information does not reach the metering server on a periodic basis, and each communication with the server adds several metrics to help determine if the user is trying to circumvent the system. The metrics may include but are not limited to: transmission times, local times, CPU usage, memory usage and user information.

Page 5, paragraph [0077] shows overlapping requests, includes active lists, it then checks at 9B for the existence of another metering monitor running on the same the client computer using the same the configuration file. If such a metering monitor exists, the newly started monitor quits.

Examiner, per 37 CFR 1.104 (c) (2), has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts of disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Michael Cuff whose telephone number is (571) 272-

6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Cuff/
Primary Examiner, Art Unit 3627